

International Tax Diplomacy

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Some time ago, your gracious Editor invited me to contribute an editorial to this issue of *Offshore Investment*. At the time, I had been reading Pope Benedict's latest Encyclical *Caritas In Veritate* (Charity in Truth) and noted that the Pope had not condemned tax havens, as predicted by some. Nor had His Holiness declared that Christian Princes were bound by Divine Law to become each other's fiscal spies. Instead he had suggested tax deductions or tax hypothecation for private charity to developing countries.

This led me to turn back to Henry George's letter of 1891 to Pope Leo XIII on "The Condition of Labour" wherein he stated "It is clear that this right way of raising public revenues must accord with the moral law. Hence: It must not take from individuals what rightfully belongs to individuals. It must not give some an advantage over others, as by increasing the prices of what some have to sell and others must buy. It must not lead men into temptation, by requiring trivial oaths, by making it profitable to lie, to swear falsely, to bribe or to take bribes. It must not confuse the distinctions of right and wrong, and weaken the sanctions of religion and the state by creating crimes that are not sins, and punishing men for doing what in itself they have an undoubted right to do. It must not repress industry. It must not check commerce. It must not punish thrift. It must offer no impediment to the largest production and the fairest division of wealth."

At that stage, I had to leave off my musings on morals and the law and diplomacy of international taxation and turn my mind to divining the meaning of some "plain English" Australian taxation legislation for a client. Naturally, I fell asleep at my desk, exhausted by the unequal struggle.

I was awakened hours later, as the candle neared its end, by the tapping of a carrier pigeon at the window, seeking refuge from a cold and dark night.

To my surprise, when I let the pigeon in and opened a small silver casket attached to its leg, I

found a parchment. It appeared the carrier pigeon had been blown off course from the Northern Hemisphere by a climate change shift in the winds. For the parchment was from the Duchy of Grand Fenwick, a remote Alpine location which had been part of the Holy Roman Empire and had not attended the Congress of Vienna. The Duchy was founded when an English knight, Roger, drove away some Swabian tax collectors who were plundering the mountain peasants and threatening the virtue of their daughters. The parchment was in Medieval Latin (which may account for its failure to be noticed by the modern Press, Grand Fenwick never having adopted French as a diplomatic language). Having obtained the permission of His Grace the Duke, I now present to the world an authorised English translation, His Grace's Chancellery having assured me that the message has been safely delivered in the meantime to Washington by courier.

TO the Honourable Barack Hussein Obama II, of the United States of America, President, FROM Rudolf Augustus Roger George, by the Grace of God, Duke of Grand Fenwick, Count of Illyria, Margrave of Ruthonia, GREETINGS!

The Duchy of Grand Fenwick and your United States hath had the most cordial relations since the visit to Our Duchy of your Mr Benjamin Franklin, whom We accredited as your Ambassador to Our Court in the year of Our Lord 1780. We remind you that Our predecessors at that time gave Mr Franklin a ducal declaration of support for the natural and juridical rights of American colonies to be free of taxes imposed from without and We regretted the misconceived attempt by our cousin George III to impose taxes contrary to the English Constitution.

It hath now come to Our attention that a certain Carl Levin of your Senate hath proposed a Bill entitled the "Stop Tax Haven Abuse Act" in your Congress. At first We were mightily

pleased that the amiable and pacific relations which hath existed between Our two countries were to be strengthened for We apprehended that this Bill was to put an end to abuses and pretensions by certain persons of no authority in strange organisations called the OECD, FATF, the Financial Stability Forum and the Global Tax Forum who have purported to dictate to Us what the laws of this Duchy ought to be.

Imagine, then, Our surprise when We were informed by Our Chancellor that the aforementioned Bill would represent an attempt by your Legislature not to suppress these public abuses of Our Duchy and interferences with Our Sovereign Dignity but to further them.

Now therefore TAKE NOTICE that We shall not allow Our Sovereign Dignity to be so impeached. We declare unto you Our Mind and Our True Intent to treat the passage of the aforementioned Bill as a Most Unfriendly Act.

We therefore advise you that, should the above Bill be passed, We shall decree to Our servants and People as follows.

Article the First

None of Our subjects shall assist your military, police, intelligence or regulatory authorities in any matter whatsoever. This is not a step We take lightly for We apprehend and respect the distinction between *mala in se* and *mala prohibita*. We Ourselves had cause to fight the evil Hashshashin in Frankish Outremer in 1191 AD and they are indeed persons mad, bad and dangerous to know, abhorrent to honest Saracen and Christian alike. We would like to assist you in matters pertaining to the protection of your people. But this We cannot do when normal and natural commercial and social intercourse is interrupted. You will, of course, be aware that some years ago, Our cousin Nikki defaulted on an Imperial Russian gold loan by Us and, as a consequence, while relations were strained, We declined to inform him of the departure from the Duchy for St Petersburg of a certain lawyer, named Vladimir Ilyich. The result was regrettable.

Article the Second

The Courts of the Duchy shall not recognise or enforce any patents of monopoly or copyrights issued by your Government or held by or on behalf of your citizens.

For some years, it hath been a grievance to Our subjects that your Monstroso Corporation hath purported to claim ownership of the seed for the Alpine corn of the Duchy. It hath been a further grievance to Our subjects that your Big Pharma Corporation hath purported to own the rights to the blueberrius Fenwickius genome which hath been widely used by Our people as a preventative medicine against cancer. These matters shall now be resolved in accordance with Our Sovereignty and Our declaration of the ancient rights of Our subjects to the free use of their minds and hands and of the natural resources given to Man by the beneficent Providence of Almighty God.

In this, We concur with the wise policy of Our cousin Elizabeth of England who in 1601

AD repented of the abusers of her grants of patents of monopoly and declared her mind that the errors, troubles, vexations and oppressions done by these varlets and lewd persons not worthy of the name of subjects should not escape without condign punishment.

Article the Third

The Courts of the Duchy shall not grant applications for the enforcement of the judgments of your Courts in bankruptcy etc and, in particular, no action shall be entertained for the enforcement of any judgment for a debt of any kind in favour of any United States authority. Comity between Courts requires comity between Sovereigns and that Our Ducal Sovereignty be respected by you.

Article the Fourth

The Chancellor of the Duchy shall invite lease applications for an industrial estate to be established in the Ducal Demesne. Tenants will be free to import or export from the Duchy all manner of things, material or immaterial, without payment of licence or copyright fees. Already, strong expressions of interest have been shown by certain gentlemen from the Empires of the late Dom Pedro, of Our late cousins Nicholas and George RI and of the Manchu. We have been told these are called BRIC countries but We are given to understand they now produce a lot more than bricks. We also look forward with pleasure to welcoming investors from the lands of New Spain and New Granada with whom We once shared a common allegiance to His Serene and Most Catholic Majesty, the Holy Roman Emperor Charles V and who was as you will recall, also King of the Indies and the mainland on the far shore of the Atlantic.

Article the Fifth

The Ducal Bank shall dispose of all holding of your greenbacks or greenback bonds whether government or corporate. Our bank shall continue to issue the gold ducat as the legal tender of the Duchy and shall permit foreigners, including United States persons, to hold private accounts. Andreas Fugger, Esq, formerly of Augsburg, whom it hath been Our pleasure to appoint as Our private banker, shall forward private bank account applications upon request to merchants and investors of all nations.

We understand that meretricious knaves in the OECD and at the G20 Summit hath purported to blame Us and other small countries for a global financial crisis, started by sub primo lending in your country and the United Kingdom of our esteemed cousin Elizabeth. We beg you inform your G20 Chancellors of the Exchequer that neither the Ducal Bank nor private banks in the Duchy are allowed to lend on the security of Our estate real and have ever lent solely for construction of homes and buildings and never for land, which belongs to Us. We would regard it as an affront to Our Sovereign Dignity were Our

estate real and the source of our ducal rents to become the object of speculation by bankers, which We understand you hath sadly allowed to happen with your lands. It has ever been Our view that bankers exist merely to serve useful trade and commerce and not to become the profiteers of land speculation or to pretend to dictate terms to Sovereigns. We have never borrowed from the World Bank or IMF or permitted their economists to tell Us that We should sell Our lands and deprive Our people of their access to their commons and their humble subsistence. We Ourselves hath ever refused to borrow from moneylenders and hath spurned the approaches of Messrs Muddy and Messrs Starving and Poor. It is not for moneylenders and their servants to pass judgment on Our fiscal probity or tell Us to sell Our Sacred Inheritance and Trust for a mess of pottage. May God pity your people for being allowed to become the slaves of usurers, whom We understand hath so suborned your Congress that the usurers grow fat on your people's taxes.

We take this opportunity of reminding you that the greenback (which your Mr Lincoln introduced to pay for a war against Mr Jefferson Davis) hath sadly become not worth a Continental, as you hath fought your more recent wars. In these circumstances We deplore the implied insult done to Our ancestress the late Empress Maria Theresa, whose thaler was respected and from which the word "dollar" originates. We therefore request you cease to call your United States currency the "dollar" and rename it officially as the "greenback" to avoid further offence to the memory of the late Empress.

We also request that your officials inform themselves as to the constitutional arrangements of Our Duchy. From the founding of the Duchy in 1105 AD by Roger the Great on his return from the First Crusade, We hath never imposed taxes on Our people but hath ever contented Ourselves with Our feudal rents and hath lived frugally off Our own. We update Our rent rolls each year and hath thereby avoided the sad predicament of Our cousin Charles I of England, may God rest his soul! Upon the publication in 1363 AD by His Holiness Pope Urban V of the Papal Bull *In Coena Domini*, which prohibited the imposition of new tolls and taxes, or the increase of old ones Our pious predecessor took counsel of His Privy Advisers and promulgated the permanent and perpetual constitution of Our Duchy whereby all taxes are prohibited and Our ducal revenues come solely from the rents of Our lands. In doing so, We hath had the most tender regard for the consciences of Our People and ever abstained from placing them under the temptation of damning their immortal souls by swearing false oaths.

We understand Our ducal fiscal law has been widely admired by political economists. M. Turgot sought to copy it for his master, our cousin, Louis of France but was sadly thwarted with fearful consequences for that Kingdom.

Professor Smith of Glasgow also visited Our Duchy with his charge the young Duke of Buccleuch in 1765 AD and declared to Our predecessor that Our Duchy's rent charge system was a model for the peace and prosperity of Europe in perfectly conforming to the maxim that the subjects of every state ought to contribute towards the support of the government, as nearly as possible, in proportion to their respective abilities; that is, in proportion to the revenue which they respectively enjoy under the protection of the State. Professor Smith also warmly commended Our constant policy of avoiding the imposition of odious and vexatious visits and examinations by tax-gatherers upon Our loyal and free subjects. Your American philosopher Mr Henry George was also a distinguished admirer of Our fiscal constitution. It hath even come to Our notice that some of Our Saracen fellow Sovereigns similarly live off their land and oil rights and do not inflict vexations and taxes upon their Moslem subjects.

We commend for your consideration Our fiscal constitution and We declare that its adoption by other civilized countries would remove all occasion for the commotions and unpleasantnesses currently being caused by those varlets, lewd persons and publicans orchestrating the so-called "G20 war on tax havens". No Sovereign would ever hath cause to complain of another's fiscal arrangements, were each content to live off the revenues of his own lands.

Having pointed out to you the means of resolving all international fiscal claims, We trust that the amiable relations which have existed since the late Mr Franklin's visit of 1780 AD will be restored and that the knavish activities of non-sovereign upstart bodies such as OECD and FATF will cease to give offence to Our ducal dignity and no longer be allowed to disturb the peace and harmonious relations which have hitherto existed between Our respective peoples.

In concluding, We assure you of Our highest consideration and invite you to send your Secretary of State, Mrs Clinton, to take counsel with Us on ensuring amiable relations. We look forward to showing her the draft of your Bill of Rights and the notes which your Mr Jefferson presented to Our predecessor in 1784 AD while en route to Prussia. Mr Jefferson took particular pride in informing Us of the meaning of the proposed Fourth and Fifth Amendments which he had discussed with your Mr James Madison. As it seems that your Supreme Court has lost its copy, We shall be pleased to present her with a facsimile copy for your Justices. You may also tell Mrs Clinton that she will have no need of those dreadful pant suits. We will provide her with the Court dress she requires and arrange instruction for her from the Duchess' ladies in waiting as to how to curtsy with grace and dignity.

Given at Our Court at the Ducal Palace, Grand Fenwick, this Third Day of August in the Golden Jubilee Year of Our Reign

By His Grace's Command